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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 JASON ARTHUR ALTHEIDE,

11 Petitioner,

12 vs.

13 SHARON WEHRLY, *et al.*,

14 Respondents.  
15

Case No. 2:15-cv-01107-APG-PAL

**ORDER**

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17 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254  
18 by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was  
19 submitted with the petition. When filing a habeas action, petitioner must either submit the \$5.00  
20 filing fee for habeas petitions or an application to proceed *in forma pauperis*. Due to the lack of an  
21 *in forma pauperis* application or filing fee, the present action will be dismissed without prejudice to  
22 the filing of a new petition in a new action with a pauper application with all required attachments.  
23 It does not appear from the papers presented that a dismissal without prejudice would result in a  
24 promptly-filed new petition being untimely. In this regard, petitioner at all times remains  
25 responsible for calculating the running of the limitations period as applied to his case and properly  
26 commencing a timely-filed habeas corpus action.

27 **IT THEREFORE IS ORDERED** that this action is **DISMISSED** without prejudice to the  
28 filing of a **new petition in a new action**.

1       **IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner two copies  
2 of an *in forma pauperis* application form for a prisoner, one copy of the instructions for the same,  
3 two copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions for the  
4 same. The Clerk shall send petitioner a copy of the documents he submitted in this action.

5       **IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but he  
6 may not file further documents in this action.

7       **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**. Reasonable  
8 jurists would not find the dismissal of the improperly-commenced action without prejudice to be  
9 debatable or wrong.

10       **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

11       Dated this 12<sup>th</sup> day of June, 2015.



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14 UNITED STATES DISTRICT JUDGE  
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